



JAMES A. NOYES, Director

# COUNTY OF LOS ANGELES

## DEPARTMENT OF PUBLIC WORKS

900 SOUTH FREMONT AVENUE  
ALHAMBRA, CALIFORNIA 91803-1331  
Telephone: (626) 458-5100  
www.ladpw.org

ADDRESS ALL CORRESPONDENCE TO:  
P.O. BOX 1460  
ALHAMBRA, CALIFORNIA 91802-1460

November 13, 2002

IN REPLY PLEASE  
REFER TO FILE: **MP-2**

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, CA 90012

Dear Supervisors:

**MULHOLLAND HIGHWAY (31) - PARCELS 31-1V, 31-1S, AND 31-2S  
UNINCORPORATED TERRITORY OF THE COUNTY OF LOS ANGELES  
PUBLIC HEARING ON RESOLUTION OF NECESSITY TO CONDEMN REAL  
PROPERTY FOR MULHOLLAND HIGHWAY AT TRACT NO. 31234  
SUPERVISORIAL DISTRICT 3  
4 VOTES**

**IT IS RECOMMENDED THAT YOUR BOARD AFTER THE PUBLIC HEARING:**

1. Consider the enclosed Addendum to the Mitigated Negative Declaration for Tentative Tract No. 31234 which involves the construction of an eight-lot subdivision and appurtenant road improvements; determine that the project will not have a significant effect on the environment; find that the Addendum reflects the independent judgment of the County; and approve the Addendum.
2. Adopt the enclosed Mitigation Monitoring and Reporting Program to ensure compliance with the project and conditions adopted to mitigate or avoid significant effects on the environment.
3. Find that the project will have no adverse effect on wildlife resources and authorize Public Works to complete and file an Certificate of Fee Exemption with the County Clerk.

4. Adopt the enclosed Resolution of Necessity to condemn easements for slope purposes in, over, and across Parcels 31-1S and 31-2S, and an easement for sight distance visibility in, on, over, and across Parcel 31-1V from Mulholland Highway approximately 3,500 feet south of Sierra Creek Road in the unincorporated County area known as Cornell.
5. Instruct County Counsel to file condemnation proceedings and take the necessary action to obtain an Order of Immediate Possession.

#### **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

With this action, your Board will approve an Addendum to the Mitigated Negative Declaration for Tract No. 31234, adopt a Resolution of Necessity to file a condemnation action to acquire Parcels 31-1S and 31-2S for slope purposes and Parcel 31-1V for sight visibility purposes, in connection with the improvement of a portion of Mulholland Highway to County standards as required by the conditions of approval for Tentative Tract No. 31234.

The County is seeking an easement in Parcels 31-1S and 31-1V consisting of 14,125 square feet and an easement in Parcel 31-2S consisting of 4,769 square feet. Parcels 31-1S, 31-1V, and 31-2S are located on the southeast side of Mulholland Highway, approximately 3,500 feet south of its intersection with Sierra Creek Road in the unincorporated area of the County of Los Angeles .

The recommended condemnation action will place these parcels in the County's possession and enable the subdivider to complete the required improvements to Mulholland Highway.

#### **Implementation of Strategic Plan Goals**

This action meets the County's Strategic Plan Goal of Service Excellence as it allows the construction of certain road improvements which improves the quality of life in the County.

#### **FISCAL IMPACT/FINANCING**

There will be no impact to the County General Fund. Pursuant to an addendum to the multiple agreements with the developer of Tract No. 31234, the developer has agreed to pay the acquisition costs for Parcels 31-1S, 31-1V, and 31-2S.

## **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

Tract No. 31234 is an eight-lot subdivision located on the southeasterly side of Mulholland Highway, approximately 3,500 feet south of the intersection with Sierra Creek Road.

The conditions of approval of Tentative Tract No. 31234 require the subdivider to improve the portion of Mulholland Highway, adjacent to the tract, to County standards. These improvements include pavement, an inverted shoulder, a parkway, and graded slopes adjacent to the parkway. The required improvements also include grading and the dedication of easements to ensure adequate sight distance for traffic to safely ingress and egress the tract from Mulholland Highway. A portion of the graded slopes and the associated easements are to be located on land which neither the subdivider nor the County owns.

Section 66462.5 of the Government Code provides, in pertinent part, as follows:

A . . . county . . . shall not . . . refuse approval of a final map because the subdivider has failed to meet a tentative map condition which requires the subdivider to construct or install offsite improvements on land in which neither the subdivider nor the local agency has sufficient title or interest . . . to permit the improvements to be made.

In such cases, the . . . county . . . shall, within 120 days of the filing of the final map . . . acquire by negotiation or commence proceedings pursuant to Title 7 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure to acquire an interest in the land which will permit the improvements to be made, including proceedings for immediate possession of the property under Article 3 (commencing with Section 1255.410) of Chapter 6 of such title.

In the event a city, county, or city and county fails to meet the 120-day time limitation, the condition for construction of offsite improvements shall be conclusively deemed to be waived.

The final Map for Tract No. 31234 was filed with the County on August 21, 2002, and was recorded on August 27, 2002. Accordingly, pursuant to Government Code Section 66462.5, the necessary interests in the offsite properties must either be acquired by negotiation, or an eminent domain proceeding must be commenced, prior to December 19, 2002 (120 days from August 21, 2002), or the condition for the construction of the offsite improvements shall be conclusively deemed to be waived.

With respect to the condemnation action, the following legal requirements are applicable:

1. Public hearing and notice

Section 1245.235 of the Code of Civil Procedure (CCP) requires that your Board hold a public hearing prior to considering the adoption of the Resolution of Necessity. Notices of the public hearing have been sent by first class mail to the owners of record.

2. The public necessity for the project

Pursuant to CCP Sections 1245.210, et seq., the Resolution of Necessity must contain a declaration that your Board has found and determined that: (a) the public interest and necessity require this project; (b) this project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury; and (c) Parcels 31-1S, 31-1V, and 31-2S are necessary for this project.

The project was conditioned to provide improvements to Mulholland Highway which included, among other things, a left-turn lane and adequate sight distance. The County has established standards for road improvements based on accepted engineering practices. These standards include minimum roadway and parkway widths, provisions for drainage, and sufficient sight distance. These items are needed to provide the public with a roadway that will function safely and allow for safe ingress and egress into the development. The offsite improvements and easements are needed to allow the roadway to be constructed in this manner.

3. Offer to purchase the parcels

Government Code Section 7267.2 requires that, prior to adopting a resolution of necessity, a condemning agency must establish an amount which it believes to be "Just Compensation" for the properties sought to be condemned, based upon an appraisal of the fair market value of the properties, and must make an offer to the owners of record to acquire the properties for the amount so established.

Written offers to acquire Parcels 31-1S, 31-1V, and 31-2S have been made to the respective owners of record, subject to your Board's approval. The amount of these offers was based on an appraisal of the fair market value of each of the parcels by a staff appraiser for the Department of Public Works.

Additionally, as required by Government Code Section 65402, the proposed acquisition was submitted to the County of Los Angeles Department of Regional Planning. The County has determined that the proposed project is in compliance with its General Plan.

### **ENVIRONMENTAL DOCUMENTATION**

The California Environmental Quality Act (CEQA) requires public agency decision makers to document and consider the environmental implication of their action.

A fee must be paid to the State Department of Fish and Game when certain notices required by CEQA are filed with the County Clerk. The County is exempt from paying this fee when the Board finds that a project will have no impacts on wildlife resources. The Initial Study of Environmental Factors concluded that there will be no adverse effects on wildlife resources. Upon approval of the Addendum by your Board, the Department of Public Works will file a Certificate of Fee Exemption with the County Clerk. A \$25 handling fee will be paid to the County Clerk for processing. We will also file a Notice of Determination in accordance with the requirements of Section 21152 (a) of the California Public Resources Code.

### **IMPACT ON CURRENT SERVICES (OR PROJECTS)**

None.

### **CONCLUSION**

This action is in the best interest of the County. Enclosed are one original and four duplicates of the proposed Resolution of Necessity. Upon adoption, please retain two copies for your files and transmit the original and one conformed copy to County Counsel's office and one copy to this office.

The Honorable Board of Supervisors  
November 13, 2002  
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One approved copy of this letter is requested.

Respectfully submitted,

JAMES A. NOYES  
Director of Public Works

DR:ayc  
P2:\BDDRE

Enc.

cc: Chief Administrative Office  
County Counsel

**RESOLUTION OF NECESSITY OF THE COUNTY OF LOS ANGELES TO EXERCISE  
THE POWER OF EMINENT DOMAIN TO ACQUIRE PROPERTY FOR IMPROVEMENTS  
TO MULHOLLAND HIGHWAY**

WHEREAS, as a condition of approval of Tentative Tract Map No. 31234, the County of Los Angeles is requiring the subdivider of said tract to construct and install certain public improvements along that portion of Mulholland Highway, adjacent to said tract, consisting of pavement, an inverted shoulder, a parkway and graded slopes all conforming to the applicable County-wide standard requirements for highways (hereinafter referred to as the "Project");

WHEREAS, the alignment and scope of the Project require the construction of offsite improvements on land in which neither the subdivider nor the County have sufficient title or interest to permit the improvements to be made;

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES HEREBY FINDS, DETERMINES, AND RESOLVES AS FOLLOWS:

Section 1. The public interest and necessity require the Project.

Section 2. The Project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury.

Section 3. The property described in Section 5, below, is necessary for the Project.

Section 4. The offer required by Section 7267.2 of the Government Code has been made to the owners of record.

Section 5. The property to be acquired for the Project is located in the Cornell area of the unincorporated territory of the County of Los Angeles, is depicted on the maps attached hereto and incorporated herein as Exhibit "B", and consists of the following:

a. An easement for maintenance of sight distance visibility on, over and across all that real property described as Parcel 31-1V in Exhibit "A", attached hereto and by this reference made a part hereof.

b. A slope easement for, and the right to construct, maintain, operate and use cuts and/or fills and appurtenant structures in, on, over and across all that real property described as Parcels 31-1S and 31-2S in said Exhibit "A".

Section 6. The property interests described in Section 5, above, are to be taken for a public use, namely, for public highway purposes and all uses necessary, incidental or convenient thereto, in connection with the construction, operation and maintenance of the Project.

Section 7. The County is authorized to acquire the property interests described hereinafter pursuant to the following:

- a. Article I, Section 19 of the Constitution of the State of California;
- b. California Code of Civil Procedure, Sections 1230.010 through 1273.050;
- c. California Government Code, Sections 25350.5 and 66462.5; and
- d. California Streets and Highways Code Section 943.

Section 8. The County Counsel is hereby authorized to institute eminent domain proceedings in the Superior Court of the State of California for the County of Los Angeles, for the purpose of acquiring the real property described in Section 5, above, and is further authorized to institute proceedings for taking of immediate possession in accordance with the provisions of all applicable laws.

The foregoing Resolution was duly adopted by the Board of Supervisors of the County of Los Angeles by at least a four-fifths vote of the members thereof on the \_\_\_\_\_ day of \_\_\_\_\_, 2002.

VIOLET VARONA-LUKENS  
Executive Officer of the  
Board of Supervisors  
of the County of Los Angeles

By \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:

Lloyd W. Pellman  
County Counsel

BY: \_\_\_\_\_  
Deputy

DR : ayc  
P2:RESOLUTION



M0352001  
File with: **MULHOLLAND HIGHWAY (31)**  
A.P.N. 4464-007-005  
T.G. 587 (G4)  
I.M. 144 -037  
Third District

**LEGAL DESCRIPTION**

**PARCEL NO. 31-1V:**

That portion of that certain parcel of land described as Parcel 2 in deed recorded on July 25, 1986, as Document No. 86-947826 of Official Records, in the office of the Recorder of the County of Los Angeles, within the following described boundary:

Beginning at the intersection of the generally southeasterly boundary of that 60-foot-wide easement described in deed recorded on June 15, 1965, in Book D2941, page 551 of said Official Records, and the easterly line of said Parcel 2; thence southerly along said easterly line South 0E34'53" East 10.87 feet; thence South 54E16'34" West 150.45 feet to said southeasterly boundary; thence along said southeasterly boundary North 45E36'20" East 39.08 feet to the beginning of that certain curve concave to the southeast and having a radius of 470 feet in said southeasterly boundary; thence northeasterly along said certain curve through a central angle of 14E26'09", an arc distance of 118.42 feet to the point of beginning.

Containing: 1,252± square feet.

**PARCEL NO. 31-1S:**

That portion of above-mentioned Parcel 2, within the following described boundary:

Beginning at the above-mentioned intersection; thence southerly along above-mentioned easterly line South 0E34'53" East 147.99 feet; thence South 89E25'07" West

175.69 feet to above-mentioned southeasterly boundary; thence along said southeasterly boundary North 45E36'20" East 112.06 feet to the beginning of that certain curve concave to the southeast and having a radius of 470 feet in said southeasterly boundary; thence northeasterly along said certain curve through a central angle of 14E26'09", an arc distance of 118.42 feet to the point of beginning.

Containing: 14,125± square feet.

**EXHIBIT "A"**

M0352101  
File with: **MULHOLLAND HIGHWAY (31)**  
A.P.N. 4464-005-001  
T.G. 587 (G4)  
I.M. 144 -037  
Third District

**LEGAL DESCRIPTION**

**PARCEL NO. 31-2S:**

That portion of that certain parcel of land described in deed recorded on January 14, 1994, as Document No. 94-97740 of Official Records, in the office of the Recorder of the County of Los Angeles, within the following described boundary:

Beginning at the intersection of the generally southeasterly boundary of that 60-foot-wide easement described in deed recorded on June 15, 1965, in Book D2941, page 551 of said Official Records, and the westerly line of said certain parcel of land; thence northeasterly along said southeasterly boundary North 47°13'15" East 104.54 feet; thence South 42°46'45" East 13.75 feet; thence South 28°52'30" West 176.27 feet to said westerly line; thence northerly along said westerly line North 0°34'53" West 93.45 feet to the point of beginning.

Containing: 4,769± square feet.

**EXHIBIT "A"**